

RIKER, DANZIG, SCHERER,  
HYLAND & PERRETTI LLP  
Dennis J. O'Grady, Esq. (DO 7430)  
Mark E. Hall, Esq. (MH 9621)  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, New Jersey 07962  
(973) 538-0800

DEWEY & LeBOEUF LLP  
Martin J. Bienenstock, Esq. (MJB 3001)  
Judy G. Z. Liu (JL 6449)  
Timothy Q. Karcher, Esq. (TK 6173)  
1301 Avenue of the Americas  
New York, New York 10019  
(212) 259-8000

Co-Attorneys for the Debtors

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In re:  G-I HOLDINGS INC., <u>et al.</u> ,  Debtors.	In Proceedings for Reorganization under Chapter 11  Case Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)  Hon. Rosemary Gambardella, U.S.B.J.  <b>Hearing Date: September 1, 2009 at 11:00 a.m.</b>  <b>Oral Argument: Requested, if Objection Filed</b>
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**MOTION OF G-I HOLDINGS INC. FOR AN ORDER PURSUANT TO  
BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENT WITH THE WFUM  
POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

TO: THE HONORABLE ROSEMARY GAMBARDELLA  
UNITED STATES BANKRUPTCY JUDGE

As and for its motion, pursuant to Federal Rule of Bankruptcy Procedure  
("Bankruptcy Rule") 9019(a) (the "Motion"), for approval of a settlement of certain  
environmental coverage claims against and distribution of proceeds from the Willis

Farber (Underwriting Management) Limited (“WFUM”) Pools Scheme insurance companies in liquidation proceedings in foreign courts (collectively, the “Insurers”),<sup>1</sup> G-I Holdings Inc., a chapter 11 debtor in possession herein (“G-I” or the “Debtor”), respectfully represents:

### **SUMMARY OF MOTION**

1. By this motion, G-I seeks approval of a settlement among G-I and its affiliates (“G-I”), International Specialty Products Inc. and its affiliates (“ISP”), Building Materials Corporation of America and its affiliates (“BMCA” and, collectively with G-I and ISP, “Policyholders”) and the Insurers with respect to the Insurers’ liability for defense and indemnity costs arising from certain allegedly contaminated sites located throughout the United States as more particularly described herein.

### **JURISDICTION**

2. This Court has jurisdiction to consider this application pursuant to 28 U.S.C. §1334. Consideration of this application is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>1</sup> The insolvent and solvent Insurers making up the WFUM Pools Scheme include: (1) Sovereign Marine & General Insurance Company Limited; (2) Allianz Insurance PLC; (3) Allianz Global Corporate & Specialty (France); (4) Atlantic Mutual Insurance Company; (5) Continental Reinsurance Corporation International Limited; (6) Greyfriars Insurance Company Limited; (7) Heddington Insurance(UK) Limited; (8) Mitsui Sumitomo Insurance Company (Europe) Limited; (9) Oslo Reinsurance Company (UK) Limited; (10) Sovereign Insurance (UK) Ltd; (11) Sphere Drake Insurance Limited; (12) The Ocean Marine Insurance Company Limited; (13) The Sea Insurance Company Limited; (14) Tokio Marine Europe Insurance Limited; and (15) Wausau Insurance Company (UK) Limited.

## **BACKGROUND**

### **A. The Debtor's Bankruptcy Case.**

3. On January 5, 2001 (the "Commencement Date"), G-I commenced with this Court a voluntary case under chapter 11 of title 11, United States Code (the "Bankruptcy Code"). On August 3, 2001, ACI Inc. ("ACI"), a subsidiary of G-I, commenced its chapter 11 case. ACI's application for joint administration with G-I for administrative purposes was approved by this Court on October 10, 2001. Both G-I and ACI are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. No trustee or examiner has been appointed in these chapter 11 cases. On January 18, 2001, the United States Trustee appointed a statutory committee of asbestos claimants to serve in G-I's chapter 11 case. Thereafter, the United States Trustee changed the name of the statutory creditors' committee to the Official Committee of Asbestos Claimants (the "Committee").

5. On May 29, 2001, G-I filed an application for the appointment of a legal representative for the present and future holders of asbestos-related demands. By order dated September 6, 2001, the Court granted G-I's application, and thereafter the parties conferred regarding appropriate candidates. By order dated October 10, 2001, the Court appointed C. Judson Hamlin as the Legal Representative of Present and Future Holders of Asbestos Related Demands for G-I (the "Legal Representative").

### **B. The Environmental Coverage Action.**

6. Policyholders are the plaintiffs in an insurance coverage action captioned G-I Holdings Inc. et al. v. Hartford Accident and Indemnity Company et al.,

Docket No. L-980-97 which is pending in the Superior Court of New Jersey, Law Division, Somerset County (the “Environmental Coverage Action”).

7. Policyholders filed the Environmental Coverage Action to secure insurance coverage for defense and indemnity costs arising from over 120 allegedly contaminated sites located across the United States. Each Policyholder bears responsibility, and owns the insurance coverage rights, for different sites at issue in the Environmental Coverage Action.<sup>2</sup> Policyholders’ insurance policies provide separate liability limits (*i.e.*, “per occurrence limits,” but not “aggregate limits”) for each of these sites.

8. Through the Environmental Coverage Action, Policyholders seek coverage under insurance policies virtually identical to those sold by the Insurers making up the WFUM Pools Scheme.

C. The Insurance Scheme Proceedings.

9. Willis Faber Underwriting Management Limited, Devonport Underwriting Agency Limited (“DUAL”) and Willis Faber & Dumas Limited (“WFD”) formerly underwrote and/or managed insurance business on behalf of the Insurers (the “WFUM Pools”).

10. On September 17, 2007, the High Court of Justice in England and Wales (the “High Court”) sanctioned the proposed schemes of 14 of the WFUM Insurers. On November 5, 2007, the High Court sanctioned the proposed scheme of the

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<sup>2</sup> In connection with their 1991 corporate restructuring, the predecessors-in-interest to Policyholders allocated their environmental liabilities in general among the entities devolving from this corporate restructuring based on whether the primary waste-generator facility took part in the manufacture, distribution and sale of building materials or of chemical products or was a discontinued operation. This allocation continued in all subsequent corporate restructurings.

remaining company, Sphere Drake Insurance Limited. Together, these schemes are referred to as the “WFUM Pools Scheme.”

11. The company with the largest share of the Pools, Sovereign, is insolvent and together with its solvent subsidiaries, Sovereign UK and Greyfriars, makes up approximately 50% of the WFUM Pools. Sovereign, however, subscribed to only 12.5% of the WFUM policies sold to the Policyholders. PRO Insurance Solutions Limited (“PRO”) is the pool run-off manager and has administered the WFUM Pools business since 1998. The WFUM Pools Scheme established an April 7, 2008 Bar Date<sup>3</sup> by which all policyholders and other creditors needed to submit claims for payment from the WFUM Pools Scheme. Policyholders submitted their claims on April 4, 2008.

D. The Allocation of the Environmental Coverage.

12. The Insurers subscribed to policies which sit “excess” of substantial underlying or primary coverage. Only a couple of the sites where Policyholders incurred covered environmental liabilities implicate the Insurers.

13. Due to the complexity of allocating environmental claims among primary and excess insurers, Policyholders retained a consultant, Mr. Stephen Sellick, to assist in presenting their claims to the WFUM Pools Scheme. Mr. Sellick is the former Managing Director of the environment and insurance claims practice at LECG, LLC and currently is the Director of Gnarus Advisors LLC. Mr. Sellick specializes in the management of complex quantitative analysis in litigation matters, particularly matters involving environmental liability claims. Mr. Sellick’s experience includes the

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<sup>3</sup> The Bar Date for Sphere Drake Insurance Limited was May 6, 2008.

development and analysis of insurance allocation methodologies using computer-based models for the allocation of multi-year losses to multi-year policy programs.

14. In assisting Policyholders with quantifying their claims under the policies subscribed to by the Insurers, Mr. Sellick, at the direction of outside counsel for Policyholders, McCarter & English, performed an allocation analysis involving Policyholders' triggered insurance policies, including the policies to which the Insurers subscribed (the "Allocation Analysis").<sup>4</sup> Mr. Sellick's Allocation Analysis determined that only two (2) sites reach the Insurers' excess coverage policies: the Linden site in New Jersey and the LCP site in New Jersey. Based on the allocation of environmental liabilities among Policyholders, ISP bears responsibility for the environmental cleanup costs, has paid environmental cleanup costs, and owns the insurance coverage rights for both of these sites (hereinafter, the "ISP Subject Sites"). Given the Allocation Analysis, when Policyholders filed claims against the Insurers as part of the liquidation proceedings involving the WFUM Pools, they could only support a claim for coverage from the Insurers for environmental liabilities at the ISP Subject Sites.

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<sup>4</sup> The Environmental Coverage Action involves not only the policies subscribed to by the Insurers, but also numerous other policies issued by other insurers. Policyholders have not yet finalized settlements with both the non-Schemes carriers which subscribed to the policies and with other carriers which provided coverage for the exact same claims. As a result, the Allocation Analysis remains confidential. To provide this analysis without confidential treatment would impact Policyholders' settlement discussions with such insurers, as well as G-I's alleged liability to governmental entities and other potentially responsible parties ("PRPs") asserting environmental claims against G-I. As a result, G-I has not filed the Allocation Analysis with the Motion. Instead, G-I has agreed to provide relevant portions of the Allocation Analysis to the Committee and the Legal Representative subject to an appropriate confidentiality agreement. G-I is prepared to file the relevant portions of the Allocation Analysis with the Bankruptcy Court under seal and to provide it to other interested parties (other than the defendants in the Environmental Coverage Action, governmental entities asserting environmental claims and co-liaible PRPs at the environmental sites) subject to an appropriate confidentiality agreement to the extent necessary to adjudicate the Motion. G-I would file those details with the Bankruptcy Court under seal in accordance with the Order Pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018 Authorizing G-I Holdings Inc. to File Documents Under Seal (the "Seal Order"), entered by the Bankruptcy Court on October 2, 2006.

15. The Allocation Analysis confirms that estimated costs and liabilities arising from G-I and BMCA sites implicate none of the excess policies to which the Insurers subscribed. The Allocation Analysis demonstrates that G-I and BMCA must incur, in most cases, millions of dollars in future additional costs before these sites can implicate the Insurers' excess coverage. The past costs and future estimated liability risks at the G-I and BMCA sites were not large enough to reach the Insurers' excess coverage policies.

16. As a result, Policyholders' settlement with the Insurers includes no consideration for environmental damages or costs incurred at sites for which G-I and BMCA bear responsibility for the environmental cleanup.

E. WFUM's Determinations and Settlement.

17. The Insurers reviewed Policyholders' claims and, in or about September 2008, issued notices of determination which valued the claims at substantially less than the amount asserted by Policyholders.<sup>5</sup> Policyholders rejected the Insurers' determinations, and the parties thereafter entered into intensive settlement negotiations.

18. The Insurers terminate all coverage obligations to Policyholders upon their Scheme payments. Policyholders, therefore, could negotiate no "coverage-in-place" settlements with the Insurers for future costs arising from their environmental

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<sup>5</sup> Because, as with the Allocation Analysis as referenced, *supra*, in n.4, the specific amount of Policyholders' settlement negotiations with its other insurers as well as G-I's alleged liability to governmental entities and other PRPs asserting environmental claims against G-I, G-I has not included these amounts in this Motion. Instead, G-I has agreed to provide this information to the Committee and the Legal Representative subject to an appropriate confidentiality agreement. In accordance with the Seal Order, G-I is also prepared to file the details with the Bankruptcy Court under seal. Finally, G-I is prepared to provide such detail to other interested parties (other than the defendants in the Environmental Coverage Action, governmental entities asserting environmental claims, and co-liable PRPs at the environmental sites) subject to an appropriate confidentiality agreement to the extent necessary to adjudicate the Motion.

sites. The Insurers, for this same reason, refused to pay for speculative and/or uncertain future liability risks at Policyholders' environmental sites.

19. Policyholders, therefore, needed to demonstrate to the Insurers the near certainty of their estimated future liability risks at the ISP Subject Sites. The Insurers eventually accepted a substantially greater portion of Policyholders' estimated future liability risks at the ISP Subject Site.

20. Thereafter, the parties' settlement negotiations ultimately resulted in a payment amount acceptable to both parties.<sup>6</sup> On or about June 24, 2009, Policyholders accepted the Insurers' revised determinations by execution of the various related valuation statements. The Policyholders sent the signed valuation statement to the Scheme Manager by electronic mail on July 1, 2009.

21. Payments to Policyholders will be made separately by Sovereign in accordance with the terms of the WFUM Pools Scheme, and will be at the prevailing payment percentage, which is currently affixed at 65% of valuation.

22. Policyholders will open an interest bearing escrow account with JPMorgan Chase Bank, N.A. ("JPMorgan Chase"). This escrow account, with JPMorgan Chase acting as escrow agent, will hold all funds paid by the Insurers (the "Escrowed Settlement Amount") pending the Bankruptcy Court's ruling on this Motion.

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<sup>6</sup> To the extent necessary to adjudicate the Motion, the Insurers' revised determinations will be provided to the Court under seal and will be provided to the Committee and Legal Representative and to other parties who have executed an acceptable confidentiality agreement.



F. The Risks of Not Pursuing the Settlement.

23. Had Policyholders not resolved their coverage claims with the Insurers, the Insurers would have referred Policyholders' claims to the "Scheme Adjudicator," in London, for final disposition. The WFUM Pools Scheme gives the Scheme Adjudicator final say over the value of Policyholders' claims with no right of appeal. The choice of a Scheme Adjudicator is to be agreed to by the Scheme manager and the policyholders, although if they cannot agree on a nominee, the Scheme Manager will request the Chairman of ARIAS UK to appoint a Scheme Adjudicator in accordance with the Scheme's requirements.

24. Moreover, the WFUM Pools Scheme gives the Scheme Adjudicator sole discretion to resolve a disputed claim based upon WFUM's file or to request further written submissions from the parties. The WFUM Pools Scheme does not permit oral presentations. The WFUM Pools Scheme also requires that the "Scheme Adjudicator will inform the Scheme Manager and the Scheme Creditor of his determination in relation to a disputed matter in writing within a maximum of 140 days of the matter being referred to him." Given this time limitation, the Scheme Adjudicator probably would have ruled on any of Policyholders' objections based solely on WFUM's file.

25. The WFUM Pools Scheme also allows the Scheme Adjudicator to value claims below the amount determined by the Insurers. Had Policyholders opted for adjudication, the Scheme Adjudicator could have valued their claim at an amount lower than the Insurers' determination. In certain circumstances, the Scheme Adjudicator also could have charged Policyholders for his time and expenses if he ruled against their challenge to the Insurers' determinations.

26. Given the uncertainties presented by the adjudication process, and the Insurers' acceptance of most of Policyholders' claim, Policyholders made a reasoned decision to accept Insurers' enhanced valuations.

**RELIEF REQUESTED AND BASIS THEREFOR**

27. G-I seeks an order approving the settlement with the Insurers in the WFUM Pools Scheme with respect to the Insurers' liability for the defense and indemnity costs Policyholders asserted in their claims in the WFUM Pools Scheme insolvency proceedings. As set forth more fully below, G-I believes that the settlement is fair and reasonable based on Policyholders' expert's allocation of the available coverage among the Insurers and Policyholders' other insurers.

**The Settlement is Fair and Equitable, is in the Best Interests of G-I's Estate and Represents G-I's Sound Business Judgment**

28. Bankruptcy Rule 9019(a) provides "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a). In ruling on a motion pursuant to Bankruptcy Rule 9019(a), the court must find the proposed settlement fair and equitable and in the best interests of the debtor's estate. See Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424 (1968); In re Heldor Indus., Inc., 131 B.R. 290 (D.N.J. 1992), rev'd and vacated sub nom., State of N.J. Dept. of Environment Protection and Energy v. Heldor Indus., Inc., 989 F.2d 702 (3d Cir. 1993); Fischer v. Pereira (In re 47-49 Charles Street Inc.), 209 B.R. 618, 620 (S.D.N.Y. 1997). To do so, the court should examine the settlement and determine whether it "falls below the

lowest point in the range of reasonableness.” Cosoff v. Rodman (In re W.T. Grant Co.), 699 F.2d 599, 608 (2d Cir. 1983).

29. Here, G-I submits that Policyholders’ settlement with the Insurers is fair and equitable and falls within the range of reasonableness. In determining to compromise and settle its claims against the Insurers, G-I has reviewed and considered all the factors pertinent to the approval of a compromise and settlement. After careful and expert analysis, G-I has determined that none of the past costs and future liability risks relating to the G-I and BMCA sites reaches the policies to which the Insurers subscribed. In fact, G-I and BMCA would have to incur, in most cases, millions of dollars in unanticipated additional costs before the sites for which G-I and BMCA bear responsibility reach the Insurers’ coverage. Therefore, it is undisputed that G-I and BMCA do not have any insurance coverage rights against the Insurers for their sites.

30. In addition, G-I believes that pursuing their claims against the Insurers through the WFUM Pools Scheme’s adjudication process would necessitate substantial expense for G-I and, importantly, as determined by G-I’s own thorough analysis of insurance coverage at the implicated sites, would most likely yield no return for G-I. Moreover, as set forth in paragraphs 23 to 26, *supra*, Policyholders, including G-I, face substantial risks in pursuing a contested adjudication of any claims they could assert under the WFUM Pools Scheme. To resolve the parties’ disputes, the settlement they entered into was negotiated and proposed in good faith, from arms-length bargaining positions, and without fraud or collusion.

31. The Environmental Coverage Action involves many complex questions of law and fact. Policyholders’ probability of success in that action is

uncertain. The Insurers have argued that Policyholders cannot recover at some substantial sites. There are also numerous legal issues which could be resolved against Policyholders. In addition, litigation of the Environmental Coverage Action against the Insurers is costly and G-I as well as the other Policyholders have been forced to allocate substantial resources to its resolution.

32. Moreover, G-I believes that Policyholders' settlement with the Insurers provides a significant value to G-I's bankruptcy estate and its creditors. The settlement provides for the Escrowed Settlement Amount to be paid to Policyholders by the Escrow Agent shortly after the Court's approval of this Motion. Further, G-I will no longer allocate resources to resolving the Environmental Coverage Action with the Insurers, saving the estate money in prosecuting the Coverage Action as to the Insurers. While the maximum recovery from the Insurers arguably could have been greater than the Escrowed Settlement Amount, the recovery could also have been substantially less given the litigation risks.

33. In addition, G-I believes that the allocation of the Escrowed Settlement Amount among Policyholders is fair and reasonable. As noted above (*see* n.2 *supra*), the various corporate restructurings allocated Policyholders' environmental liabilities and insurance coverage rights based on the status of the primary waste-generator facility. The Escrowed Settlement Amount satisfies claims arising from Policyholders' various past and future indemnity costs. Based on Mr. Sellick's analysis and allocation of the claims among the sites and consistent with the allocation of the liabilities in the restructurings, Policyholders have allocated 100% of the Settlement Amount to ISP.

34. For the foregoing reasons, G-I submits that Policyholders' business decision to resolve the claims with respect to the Insurers' liability related to the defense and indemnity costs asserted in the WFUM Pools Scheme insurance insolvency proceedings is sound and justified under the circumstances, is fair and equitable, and is in the best interests of G-I's creditors and its estate. Accordingly, G-I respectfully requests that the Court approve G-I's decision to settle the claims against the Insurers and to authorize JPMorgan Chase to distribute the Escrowed Settlement Amount to ISP on account of its payments, liabilities and insurance recovery rights related to the ISP Subject Sites.

#### **WAIVER OF MEMORANDUM OF LAW**

35. Pursuant to D.N.J. LBR 9013-2, G-I respectfully requests that the Court waive the requirement that it file a memorandum of law in support of this Application. No memorandum of law is necessary because no novel issues of law are presented herein.

#### **NOTICE**

36. G-I has served notice of this Motion on (i) the Office of the United States Trustee for the District of New Jersey, (ii) the Committee, (iii) the Legal Representative, (iv) Helen Burdett, PRO Insurance Solutions Limited (representative for the Insurers), (v) BMCA, (vi) ISP, and (vii) all other parties that have filed a notice of appearance in this case. G-I submits that, given the nature of the relief requested, no other or further notice need be given.

WHEREFORE, G-I respectfully requests that the Court approve its settlement with the Insurers in the WFUM Pools Scheme and grant G-I such other and further relief as may be just.

Dated: July 29, 2009  
Morristown, New Jersey

RIKER, DANZIG, SCHERER, HYLAND  
& PERRETTI LLP

By: /s/ Dennis J. O'Grady  
Dennis J. O'Grady (DO 7430)

-and-

DEWEY & LEBOEUF LLP  
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3957155.3

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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY

In re:

G-I HOLDINGS INC., et al.,

Debtors.

Chapter 11

Case No. 01-30135 (RG) and  
01-38790 (RG) (Jointly Administered)

Hon. Rosemary Gambardella, Chief U.S.B.J.

**AFFIDAVIT OF ANTHONY BARTELL IN SUPPORT OF G-I HOLDINGS  
INC.'S MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY  
RULE 9019 APPROVING SETTLEMENT WITH THE WFUM POOLS  
SCHEME INSURANCE COMPANIES IN LIQUIDATION**

STATE OF NEW JERSEY )  
  )  
COUNTY OF ESSEX        )

Anthony Bartell, being duly sworn, deposes and says:

1. I am an attorney at law of the State of New Jersey, and I am a member of the firm of McCarter & English, LLP. I am Special Counsel for G-I Holdings Inc. which, along with

ACI, Inc., is a debtor and debtor-in-possession herein ("G-I" or the "Debtor"). I make this Affidavit in support of G-I's motion (the "Motion") for approval of a settlement with the Willis Farber (Underwriting Management) Limited ("WFUM") Pools Scheme insurance companies in liquidation proceedings in foreign courts (collectively, the "Insurers"). I am fully familiar with the facts set forth herein.

2. I represent G-I and its affiliates ("G-I"), International Specialty Products Inc. and its affiliates ("ISP") and Building Materials Corporation of America and its affiliates ("BMCA" and collectively with G-I and ISP, "Policyholders") in an insurance coverage action captioned G-I Holdings Inc. et al. v. Hartford Accident and Indemnity Company et. al., Docket No. L-980-97, Superior Court of New Jersey, Law Division, Somerset County (the "Environmental Coverage Action").

**A. The Environmental Coverage Action.**

3. Policyholders filed the Environmental Coverage Action to secure insurance coverage for defense and indemnity costs arising from over 120 allegedly contaminated sites located across the United States. Each Policyholder bears responsibility, and owns the insurance coverage rights, for different sites at issue in the Environmental Coverage Action. Policyholders' insurance policies provide separate liability limits (*i.e.*, "per occurrence limits," but not "aggregate limits") for each of these sites.

4. Through the Environmental Coverage Action, Policyholders seek coverage under insurance policies virtually identical to those sold by the Insurers making up the WFUM Pools Scheme.

**B. The Insurance Scheme Proceedings**

5. On September 17, 2007, the High Court of Justice in England and Wales (the "High Court") sanctioned the proposed schemes of 14 of the WFUM Insurers. On November 5,



2007, the High Court sanctioned the proposed scheme of the remaining company, Sphere Drake Insurance Limited. Together, these Schemes are referred to as the “WFUM Pools Scheme.”

6. The company with the largest share of the Pools, Sovereign, is insolvent and together with its solvent subsidiaries, Sovereign UK and Greyfriars, makes up approximately 50% of the WFUM Pools. Sovereign, however, subscribed to only 12.5% of the WFUM policies sold to the Policyholders. PRO Insurance Solutions Limited (“PRO”) is the pool run-off manager and has administered the WFUM Pools business since 1998. The WFUM Pools Scheme established an April 7, 2008 Bar Date<sup>1</sup> by which all policyholders and other creditors needed to submit claims for payment from the WFUM Pools Scheme. Policyholders submitted their claims on April 4, 2008.

#### **C. The Allocation of the Coverage**

7. The Insurers subscribed to policies which sit “excess” of substantial underlying or primary coverage. Only a couple of the sites where Policyholders incurred covered environmental liabilities implicate the Insurers.

8. Due to the complexity of allocating environmental claims among primary and excess insurers, Policyholders retained a consultant, Mr. Stephen Sellick, to assist in presenting their claims to the Insurers. Mr. Sellick is the former Managing Director of the environment and insurance claims practice at LECG, LLC and currently is the Director of Gnarus Advisors LLC. Mr. Sellick specializes in the management of complex quantitative analysis in litigation matters, particularly matters involving environmental liability claims. Mr. Sellick’s experience includes the development and analysis of insurance allocation methodologies using computer-based models for the allocation of multi-year losses to multi-year policy programs.

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<sup>1</sup> The Bar Date for Sphere Drake Insurance Limited was May 6, 2008.

9. In assisting Policyholders with quantifying their claims under the policies subscribed to by the Insurers, Mr. Sellick, at the direction of outside counsel for Policyholders, McCarter & English, performed an allocation analysis involving Policyholders' triggered insurance policies, including the policies to which the Insurers subscribed (the "Allocation Analysis"). Mr. Sellick's Allocation Analysis determined that only two (2) sites reach the Insurers' excess coverage policies: the Linden site in New Jersey and the LCP site in New Jersey. Based on the allocation of environmental liabilities among Policyholders, ISP bears responsibility for the environmental cleanup costs, has paid environmental cleanup costs, and owns the insurance coverage rights for each of these sites (hereinafter, the "ISP Subject Sites"). Given the Allocation Analysis, when Policyholders filed claims against the Insurers as part of the liquidation proceedings involving the WFUM Pools, they could only support a claim for coverage from the Insurers for environmental liabilities at the ISP Subject Sites.

10. The Allocation Analysis confirms that estimated costs and liabilities arising from G-I and BMCA sites implicate none of the excess policies to which the Insurers subscribed. The Allocation Analysis demonstrates that G-I and BMCA must incur, in most cases, millions of dollars in future additional costs before these sites can implicate the Insurers' excess coverage. The past costs and future estimated liability risks at the G-I and BMCA sites were not large enough to reach the Insurers' excess coverage policies.

11. As a result, Policyholders' settlement with the Insurers includes no consideration for environmental damages or costs incurred at sites for which G-I and BMCA bear responsibility for the environmental cleanup.

**D. WFUM's Determinations and Settlement**

12. The Insurers reviewed Policyholders' claims and, in or about September 2008, issued notices of determination which valued the claims at substantially less than the amount asserted by Policyholders. To the extent necessary to adjudicate the Motion, a true copy of the Insurers' determinations will be provided to the Court under seal and will be provided to the Official Committee of Asbestos Claimants (the "Committee"), the Legal Representative of Present and Future Holders of Asbestos Related Demands for G-I (the "Legal Representative"), and other parties who have executed an acceptable confidentiality agreement.

13. Policyholders rejected the Insurers' determinations, and the parties thereafter entered into intensive settlement negotiations.

14. The Insurers terminate all coverage obligations to Policyholders upon their Scheme payments. Policyholders, therefore, could negotiate no "coverage-in-place" settlements with the Insurers for future costs arising from their environmental sites. The Insurers, for this same reason, refused to pay for speculative and/or uncertain future liability risks at Policyholders' environmental sites.

15. Policyholders, therefore, needed to demonstrate to the Insurers the near certainty of their estimated future liability risks at the ISP Subject Sites. The Insurers eventually accepted a substantially greater portion of Policyholders' estimated future liability risks at the ISP Subject Sites.

16. The parties' settlement negotiations resulted in a payment amount acceptable to both parties. To the extent necessary to adjudicate the Motion, a true copy of the Insurers' revised determinations will be provided to the Court under seal and will be provided to the Committee, the Legal Representative, and other parties who have executed an acceptable confidentiality agreement.

17. On or about June 24, 2009, Policyholders accepted the Insurers' revised determinations by execution of the various related valuation statements. The Policyholders sent the signed valuation statement to the Scheme Manager by electronic mail on July 1, 2009. Payments to Policyholders will be made separately by Sovereign in accordance with the terms of the WFUM Pools Scheme, and will be at the prevailing payment percentage, which is currently affixed at 65% of valuation.

18. Policyholders will open an interest bearing escrow account with JP Morgan Chase Bank, N.A. ("JP Morgan Chase"). This escrow account, with JP Morgan Chase acting as escrow agent, will hold all funds paid by the Insurers (the "Escrowed Settlement Amount") pending the Bankruptcy Court's ruling on the Motion.

**E. The Risks of Not Pursuing the Settlement.**

19. Had Policyholders not resolved their coverage claims with the Insurers, the Insurers would have referred Policyholders' claims to the "Scheme Adjudicator," in London, for final disposition. The WFUM Pools Scheme give the Scheme Adjudicator final say over the value of Policyholders' claims with no right of appeal. The choice of a Scheme Adjudicator is to be agreed to by the Scheme manager and the policyholders, although if they cannot agree on a nominee, the Scheme Manager will request the Chairman of ARIAS UK to appoint a Scheme Adjudicator in accordance with the Scheme's requirements.

20. Moreover, the WFUM Pools Scheme gives the Scheme Adjudicator sole discretion to resolve a disputed claim based upon WFUM's file or to request further written submissions from the parties. The WFUM Pools Scheme does not permit oral presentations. The WFUM Pools Scheme also requires that the "Scheme Adjudicator will inform the Scheme Manager and the Scheme Creditor of his determination in relation to a disputed matter in writing within a maximum of 140 days of the matter being referred to him." Given this time limitation,

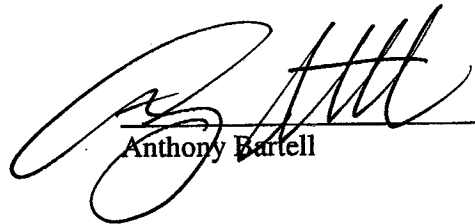
the Scheme Adjudicator probably would have ruled on any of Policyholders' objections based solely on WFUM's file.

21. The WFUM Pools Scheme also allows the Scheme Adjudicator to value claims below the amount determined by the Insurers. Had Policyholders opted for adjudication, the Scheme Adjudicator could have valued their claim at an amount lower than the Insurers' determination. In certain circumstances, the Scheme Adjudicator also could have charged Policyholders for his time and expenses if he ruled against their challenge to the Insurers' determinations.

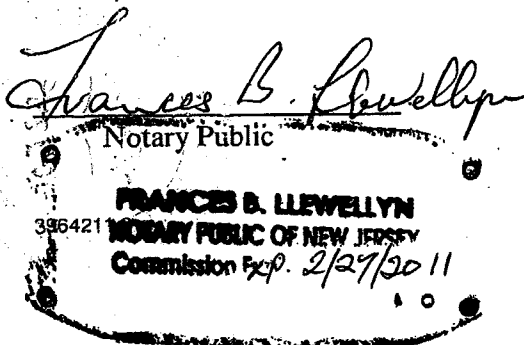
22. Given the uncertainties presented by the adjudication process, and the Insurers' acceptance of most of Policyholders' claims, Policyholders made a reasoned decision to accept the Insurers' enhanced valuations.

23. Pursuant to 28 U.S.C. § 1746, I swear under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2009

  
Anthony Bartell

Subscribed and sworn to before me  
this 29th day of July, 2009.



RIKER, DANZIG, SHERER, HYLAND & PERRETTI LLP  
Dennis J. O'Grady, Esq. (DO 7430)  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, New Jersey 07962  
(973) 538-0800

DEWEY & LEBOEUF LLP  
Martin J. Bienenstock, Esq. (MB NY-3001)  
1301 Avenue of the Americas  
New York, New York 10019  
(212) 259-8000

Co-Attorneys for the Debtors

**FILED**  
**JAMES J. WALDRON**

**SEP 11 2009**

U.S. BANKRUPTCY COURT  
NEWARK, N.J.  
BY *[Signature]* DEPUTY

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In re:

G-I HOLDINGS INC., et al.,

Debtors.

In Proceedings for Reorganization under Chapter 11

Case Nos. 01-30135 (RG) and 01-38790 (RG)  
(Jointly Administered)

Hon. Rosemary Gambardella, U.S.B.J.

**ORDER PURSUANT TO BANKRUPTCY RULE 9019(a) APPROVING SETTLEMENT  
WITH THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

Based upon the record in this matter, the relief set forth in paragraphs 1 to 6 on the following pages, numbered two (2) through three (3), is hereby **ORDERED**.

9-11-09 *[Signature]*  
USBJ

In re G-I Holdings Inc., et al.

CASE NOS. 01-30135(RG) AND 01-38790(RG) (JOINTLY ADMINISTERED)

ORDER PURSUANT TO BANKRUPTCY RULE 9019(a) APPROVING SETTLEMENT  
WITH THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION

THIS MATTER having been opened to the Court by Riker, Danzig, Scherer, Hyland & Perretti LLP and Dewey & LeBoeuf LLP, co-counsel to G-I Holdings Inc. ("G-I" or the "Debtor"), upon the Motion of G-I Holdings Inc. for an Order Pursuant to Bankruptcy Rule 9019(a) Approving Settlement with the WFUM Pools Scheme Insurance Companies (the "Motion"), and the Court having reviewed the Motion, and it appearing that:

(i) G-I, International Specialty Products Inc. ("ISP") and Building Materials Corporation of America ("BMCA") are policyholders (collectively, "Policyholders") under various policies of excess insurance sold by, among others, the insurers making up the WFUM Pools Scheme ("WFUM");

(ii) Policyholders submitted claims in WFUM's insolvency proceedings for the two sites at which their covered environmental liabilities reached the policies sold by WFUM; to wit, the Linden and LCP Sites in New Jersey (the "Claims");

(iii) WFUM objected to the amount of the Claims and Policyholders and WFUM entered into negotiations to fix the amount of the claims;

(iv) based on the facts set forth in the Motion and the Affidavit of Anthony Bartell in support of the Motion, the proposed allowed amount of the Claims in WFUM's insolvency proceedings (a) is fair and is above the lowest point in the range of reasonableness, (b) was negotiated in good faith and at arms-length, and (c) is in the best interest of the Debtor's bankruptcy estate;

and for good cause shown,

In re G-I Holdings Inc., et al.

CASE NOS. 01-30135(RG) AND 01-38790(RG) (JOINTLY ADMINISTERED)

ORDER PURSUANT TO BANKRUPTCY RULE 9019(a) APPROVING SETTLEMENT  
WITH THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION

THE COURT ORDERS THAT:

1. The Motion be, and hereby is, APPROVED.
2. G-I be, and hereby is, AUTHORIZED to execute any documents necessary to resolve the Claims and release the Escrowed Settlement Amount (as defined in the Motion).
3. JPMorgan Chase (as defined in the Motion) be, and hereby is, AUTHORIZED and DIRECTED to release to ISP any and all payments received from WFUM to JPMorgan Chase (as defined in the Motion).
4. WFUM be, and hereby is, AUTHORIZED and DIRECTED to make any further distribution on account of the Claims directly to ISP.
5. The Debtor's counsel be, and hereby is, DIRECTED to serve a true copy of this Order upon the United States, their counsel, if any, the Office of the United States Trustee and the Core Service List within seven (7) days after its receipt of an entered copy of this Order.
6. This Order incorporates the Stipulation and Consent Order Regarding Motions of G-I Holdings Inc. for Orders Pursuant to Bankruptcy Rule 9019(a) Approving Settlements With Allstate Insurance Company and the WFUM Pools Scheme Insurance Companies in Liquidation (the "Stipulation"), executed by the parties to the Stipulation on September 10, 2009.

3979243.1



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

RIKER, DANZIG, SCHERER, HYLAND & PERRETTI LLP  
Dennis J. O'Grady, Esq. (DO 7430)  
Mark E. Hall, Esq. (MH 9621)  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, NJ 07962-1981  
(973) 538-0800

-and-

DEWEY & LEBOEUF LLP  
Martin J. Bienenstock, Esq. (MB NY-3001)  
Timothy Q. Karcher, Esq. (TQK 6173)  
1301 Avenue of the Americas  
New York, New York 10019

Co-Counsel to the Debtors and Building Materials Corporation of  
America

In re:

G-I HOLDINGS INC., et al.,

Debtors.

FILED  
JAMES J. WALDRON

SEP 11 2009

U.S. BANKRUPTCY COURT  
NEWARK, N.J.  
BY *[Signature]* DEPUTY

In Proceedings for Reorganization Under Chapter 11

Hon. Rosemary Gambardella, U.S.B.J.

Case Nos. 01-30135 (RG) and 01-38790 (RG)  
(Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS  
INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING  
SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM  
POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

The relief set forth on the following pages, numbered two (2) through six (6), is hereby  
**ORDERED.**

9-11-09

*[Signature]*  
USBJT

In re G-I Holdings Inc., et al., Bankr. Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

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WHEREAS, the Motion of G-I Holdings Inc. for an Order Pursuant to Bankruptcy Rule 9019(a) Approving Settlement with the WFUM Pools Scheme Insurance Companies in Liquidation was filed with the Court by Riker, Danzig, Scherer, Hyland & Perretti LLP ("Riker Danzig") and Dewey & LeBoeuf LLP ("Dewey"), co-counsel to the debtors and debtors-in-possession herein, G-I Holdings Inc. ("G-I") and ACI, Inc. ("ACI" and together with G-I, the "Debtors") on July 29, 2009 (the "WFUM Motion"); and

WHEREAS, the Motion of G-I Holdings Inc. for an Order Pursuant to Bankruptcy Rule 9019(a) Approving Settlement with Allstate Insurance Company, Successor in Interest to Northbrook Excess and Surplus Insurance Company, Formerly Known as Northbrook Insurance Company was filed with the Court by Riker Danzig and Dewey, co-counsel to the Debtors, on August 3, 2009 (the "Allstate Motion" and together with the WFUM Motion, the "9019 Motions"); and

WHEREAS, the Official Committee of Asbestos Claimants (the "Committee") and the Legal Representative of Present and Future Holders of Asbestos-Related Demands (the "Legal Representative") requested information related to the 9019 Motions; and

WHEREAS, thereafter, on various dates, G-I provided the Committee and the Legal Representative with documents that G-I designated confidential related to the 9019 Motions pursuant to the Confidentiality Agreements<sup>1</sup> and made itself available to answer any questions regarding the 9019 Motions or the related documents provided by G-I; and

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<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Stipulation and Consent Order Regarding Motions of G-I Holdings Inc. for Orders Pursuant to Bankruptcy Rule 9019(a) Approving Settlements with KWELM, Bermuda Fire & Marine Insurance Company Limited, and Bryanston Insurance

In re G-I Holdings Inc., et al., Bankr. Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

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WHEREAS, previously, on March 5, 2007, G-I, its parent company, G Holdings, Inc., the Committee and the Legal Representative (collectively, the "Parties") participated in a mediation; and

WHEREAS, following the mediation, the Parties outlined the principal terms of a global settlement of their outstanding disputes in these chapter 11 cases and agreed to endeavor to complete the global settlement with comprehensive documentation in the form of a proposed chapter 11 plan and its ancillary documents; and

WHEREAS, on August 21, 2008, the Debtors, the Committee and the Legal Representative collectively filed the Joint Plan of Reorganization of G-I Holdings Inc. and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "Joint Plan"); and

WHEREAS, on October 30, 2008, the Debtors, the Committee and the Legal Representative collectively filed the First Amended Joint Plan of Reorganization of G-I Holdings and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "First Amended Joint Plan"); and

WHEREAS, on December 3, 2008, the Debtors, the Committee and the Legal Representative collectively filed the Second Amended Joint Plan of Reorganization of G-I Holdings and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "Second Amended Joint Plan"); and

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Company and Motion of G-I Holdings Inc. Pursuant to Bankruptcy Rule 9019(a) and Bankruptcy Code § 363 for an Order Approving Settlement Agreement and Authorizing the Sale of Insurance Policies Free and Clear of Liens, Claims, Interests and Other Encumbrances, entered by the Court on July 11, 2007.

In re G-I Holdings Inc., et al., Bankr. Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

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WHEREAS, on July 2, 2009, the Debtors, the Committee and the Legal Representative collectively filed the Third Amended Joint Plan of Reorganization of G-I Holdings and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "Third Amended Joint Plan"); and

WHEREAS, on July 28, 2009, the Debtors, the Committee and the Legal Representative collectively filed the Fourth Amended Joint Plan of Reorganization of G-I Holdings and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "Fourth Amended Joint Plan"); and

WHEREAS, on August 19, 2009, the Debtors, the Committee and the Legal Representative collectively filed the Fifth Amended Joint Plan of Reorganization of G-I Holdings and ACI Inc. Under Chapter 11 of the Bankruptcy Code (the "Fifth Amended Joint Plan"); and

WHEREAS, after review and consideration of the 9019 Motions and the documents produced by G-I pursuant to the Confidentiality Agreements, the Committee and the Legal Representative determined that there is no basis to object to the reasonableness of the 9019 Motions, other than potentially with respect to the allocation of proceeds from the 9019 Motions among G-I, International Specialty Products Inc. ("ISP") and Building Materials Corporation of America ("BMCA"); and

WHEREAS, in view of the global settlement among the Parties and the filing of the Joint Plan and the subsequent amendments, G-I, the Committee and the Legal Representative agreed that it was preferable to proceed with the 9019 Motions, and preserve any potential claim of the Committee or the Legal Representative as to allocation of the proceeds related to the 9019

In re G-I Holdings Inc., et al., Bankr. Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

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Motions pending confirmation of the Fifth Amended Joint Plan or any amendment thereto, or any plan agreed to by the Debtors, the Committee and the Legal Representative.

IT IS hereby STIPULATED, ORDERED and DIRECTED as follows:

1. The Committee and the Legal Representative shall not object to and shall support the entry of an order approving the 9019 Motions.

2. Notwithstanding the above or the entry of an order approving the 9019 Motions, if the Fifth Amended Joint Plan or any amendment thereto, or any plan agreed to by the Debtors, the Committee and the Legal Representative is not approved by the Court, then solely the Committee's and the Legal Representative's rights and claims to the appropriate allocation of proceeds with respect to the 9019 Motions among G-I, ISP and BMCA are reserved. In that event, the Committee or the Legal Representative may assert these rights by motion in the Bankruptcy Court. If the Committee or Legal Representative file such a motion, the Debtors, ISP and BMCA reserve their right to defend against such assertion. G-I, ISP and BMCA hereby consent to jurisdiction for such a motion and waive any defenses based upon standing, statute of limitations and laches arising after the date of this Stipulation.

3. If the Fifth Amended Joint Plan or any amendment thereto, or any plan agreed to by the Debtors, the Committee and the Legal Representative is confirmed, then, on the Effective Date of that plan of reorganization, the Committee and the Legal Representative shall forfeit the rights and claims preserved herein to challenge the allocation of proceeds from the 9019 Motions among G-I, ISP and BMCA.

In re G-I Holdings Inc., et al., Bankr. Nos. 01-30135 (RG) and 01-38790 (RG) (Jointly Administered)

**STIPULATION AND CONSENT ORDER REGARDING MOTIONS OF G-I HOLDINGS INC. FOR ORDERS PURSUANT TO BANKRUPTCY RULE 9019(A) APPROVING SETTLEMENTS WITH ALLSTATE INSURANCE COMPANY AND THE WFUM POOLS SCHEME INSURANCE COMPANIES IN LIQUIDATION**

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4. G-I's counsel be, and hereby is, DIRECTED to serve a true copy of this Order upon the Core Service List, the 2002(g) Service List, and counsel for the insurers related to the 9019 Motions within seven (7) days after its receipt of an entered copy of this Order.

RIKER, DANZIG, SCHERER, HYLAND &  
PERRETTI LLP  
Co-Counsel to the Debtors and Building  
Materials Corporation of America

By: /s/ Dennis J. O'Grady  
Dennis J. O'Grady (DO 7430)

Dated: September 10, 2009

SAIBER SCHLESINGER SATZ &  
GOLDSTEIN, LLC  
Co-Counsel the Legal Representative of  
Present and Future Holders of Asbestos-  
Related Demands

By: /s/ Nancy A. Washington  
Nancy A. Washington (NW 4350)

Dated: September 10, 2009

-and-

KEATING MUETHING & KLEKAMP PLL  
Kevin E. Irwin (KI 3828)  
Michael L. Scheier (MS 9173)  
Co-Counsel to the Legal Representative of  
Present and Future Holders of Asbestos-  
Related Demands

LOWENSTEIN SANDLER, PC  
Co-Counsel to the Official Committee of  
Asbestos Claimants

By: /s/ Michael D. Lichtenstein  
Michael D. Lichtenstein (ML 1597)

Dated: September 10, 2009

INTERNATIONAL SPECIALTY  
PRODUCTS INC.

By: /s/ Gregory J. Ruffing  
Gregory J. Ruffing  
Assistant Secretary

Dated: September 10, 2009

3978457.2